

New Entrant Bidding Credit

- ☞ Unique to broadcast auctions
- ☞ Will be offered in FM Auction No. 37

DISCLAIMER

 Nothing herein is intended to supersede any provision of the Commission's rules or public notices. These slides should not be used as a substitute for a prospective applicant's review of the Commission's relevant orders, rules, and public notices. Prospective applicants must familiarize themselves thoroughly and remain current with the Commission's rules relating to FM Broadcast Service, rules relating to application and auction procedures, and the procedures, terms and conditions contained in the Auction No. 37 public notices.

History

- ☞ Adopted August 6, 1998 in *Broadcast First Report and Order* (FCC 98-194) 13 FCC Rcd 15920 (1998)
 - Fulfills 309(j) obligation
 - promotes ownership diversification
- ☞ Refined on reconsideration in April 15, 1999 *Memorandum Opinion and Order* (FCC 99-74) 14 FCC Rcd 8724 (1999)
- ☞ Applied debt/equity attribution provisions in second *Memorandum Opinion and Order* August 4, 1999 (FCC 99-201) 14 FCC Rcd 12541 (1999)
- ☞ Governed by the broadcast attribution rules

Mechanics

- 📄 Bidding Credit: a percentage discount applied to high bid amount if bidder meets designated entity criteria established in broadcast auction rules
- 📄 Two tiers: 25% and 35%
- 📄 Apply on Form 175
- 📄 Check box on Form 175 Profile Page
- 📄 Include Exhibit C with certification and appropriate information

Rules

- 📄 47 C.F.R. Section 73.5007 - Designated Entity Provisions
- 📄 47 C.F.R. Section 73.5008 - Definitions
- 📄 Applies general broadcast attribution provisions of rule 47 C.F.R. Section 73.3555, note 2

Eligibility

- ☞ *Whose* other media interests are counted in establishing eligibility?
- ☞ We consider other media interests held by winning bidder, and by any entity or individual with *attributable interest* in winning bidder
- ☞ 35% - no attributable interest in any other media of mass communication
- ☞ 25% - attributable interest in no more than 3 mass media facilities
 - Existing interests may not be in “same area” as a proposed facility

Eligibility

 “same area” – existing facility in “same area” as proposed if relevant defined service area of existing facility partially overlaps, or is partially overlapped by, proposed facility’s relevant contour

- relevant contours defined in 73.5007

 *What* media interests are counted?

 73.5008 defines a “medium of mass communications”: daily newspaper; cable television system; license or construction permit for television, AM or FM broadcast station; direct broadcast satellite transponder; or multipoint distribution service station

Eligibility

- ☞ *Which* interests are counted?
- ☞ Attributable interest – determined in accordance with 47 C.F.R. Section 73.3555 and note 2
- ☞ Interests held by winning bidder in LPTV, TV translator, or FM translator facilities not counted as mass media interests in determining eligibility
- ☞ Full service noncommercial educational stations, on both reserved and nonreserved channels, are included as mass media interests. *Minnesota Christian Broadcasters, Inc.*, 18 FCC Rcd 614 (2003)

Unjust enrichment

- ☞ If permittee used bidding credit and seeks to assign or transfer control to entity not meeting eligibility criteria
- ☞ Must reimburse Government for bidding credit amount plus interest
- ☞ Condition of Commission approval of assignment or transfer
- ☞ 5 year reimbursement period
 - within first 2 years: 100%
 - year 3: 75%
 - year 4: 50%
 - year 5: 25%. No reimbursement thereafter

New Entrant Bidding Credit

Attachment C – Sample 1

Applicant Winning Bidder, Inc. qualifies for a 35% new entrant bidding credit in Auction No. 37.

Applicant Winning Bidder, Inc. hereby certifies that neither Winning Bidder, Inc., nor any individual or entity with an attributable interest in Winning Bidder, Inc., has any attributable interest in any other media of mass communications, as defined in 47 C.F.R. § 73.5008.

New Entrant Bidding Credit

Attachment C – Sample 2

- Applicant Winning Bidder Inc. qualifies for a 25% new entrant bidding credit in Auction No. 37.
- Applicant Winning Bidder, Inc. hereby certifies that neither Winning Bidder, Inc., nor any individual or entity with an attributable interest in Winning Bidder, Inc., has an attributable interest in more than three mass media facilities, as defined in 47 C.F.R. § 73.5008.
- Lucky Guy, the 100% stockholder of Winning Bidder, Inc. has an attributable interest in two FM broadcast stations: KCRG (FM) Cedar Rapids, Iowa and KHAK (FM) Marion, Iowa.
- Neither of these two existing FM stations are in the “same area” as the proposed FM broadcast facilities applied for in Auction No. 37, as the term “same area” is defined in 47 C.F.R. § 73.5007(b).

New Entrant Bidding Credit

Attachment C – Sample 3

Applicant Winning Bidder, Inc. qualifies for a 25% new entrant bidding credit in Auction No. 37

Applicant Winning Bidder, Inc. hereby certifies that neither Winning Bidder, Inc., nor any individual or entity with an attributable interest in Winning Bidder, Inc., has an attributable interest in more than three mass media facilities, as defined in 47 C.F.R. § 73.5008.

Lucky Guy, the 100% stockholder of Winning Bidder, Inc. has an attributable interest in one FM broadcast station: KCRG (FM) Cedar Rapids, Iowa.

Applicant Winning Bidder, Inc. has applied for 10 FM allotments in Auction No. 37. Applicant Winning Bidder, Inc. is eligible for the new entrant bidding credit in 9 of the FM allotments, but is not eligible for the new entrant bidding credit in market FM 83 Anamosa, Iowa, as existing station KCRG (FM) Cedar Rapids, Iowa, is in the “same area” as the proposed Anamosa facility, as the term is defined in 47 C.F.R. § 73.5007(b).